

REMARKS

The rejections under 35 USC 112, second paragraph, are attended to by claim editing above without narrowing and, therefore, without Festo-like limitations even though in response to a statutory requirement. Other non-narrowing claim editing also without Festo-like limitations is also made above, along with a combination of original claims 1 and 2 that should not result in Festo-like limitations, either, despite some thinking to the contrary.

The latter traverses the rejection of independent claim 1 under 35 USC 102 for anticipation by the cited Marx patent because:

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *MPEP* 2131 (citation omitted).

Claim 1 is not anticipated, therefore, at least because the lower edges of covers of the Marx patent are not continuous, as claimed, but rather "... are provided [by] a series of spaced apart anchoring members (Figs. 1 and 2) ..." as specifically described at page 2, left-hand column, lines 3-4, whereby the covers are not uninterrupted, either.

Although page 2, right-hand column, line 64, of the Marx patent later discloses that the rail element of the sole may be continuous, the attachment means of the uppers remain spaced apart to allow for "... displacement of the upper relatively to and length-wise of the outer edge or margin of the outsole" There is no disclosure or teaching toward uppers (covers) which are "... uninterrupted sheaths open at undersides and having continuous lower edges," as claimed.

Adding the cited Bailey, et al. patent to the rejection does not support a rejection for obviousness under 35 USC 103, either. The vamp 28 is not uninterrupted with a continuous

lower edge, either, and, in any event, attaches to a midsole 24 and not an outsole (18 in the patent) as in new claim 19, which is supported by original Fig. 1.

The Bailey, et al. patent discloses a shoe bottom and "... a shoe top that has a midsole, an insole and an upper vamp portion ...," according to the Abstract. If the shoe top is taken as an analogue of the claimed interchangeable cover, then the patent has no uninterrupted sheath, as claimed. If the vamp 28 is taken as the claimed cover, then the patent discloses neither the uninterrupted sheath nor the continuous lower edge of claim 1 nor connection to an outsole of claim 19. The vamp 28 cannot be said to have the features of uninterrupted sheath and continuous lower edge.

Reconsideration and allowance are, therefore, requested.

Respectfully submitted,

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